

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3753 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RAVI VIDAYALAYA & ANR.

Versus

JITENDRA ANANTRAY BHATT, SECRETARY, NAV-SARJAN
CHARITABLE TRUST, AND ORS.

Appearance:

MR YB SHAH for Petitioners
MR DM THAKKAR for Respondent No. 1
None present for other Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/10/96

ORAL JUDGMENT

Heard learned counsel for the parties. The petitioner-Trust filed this petition before this Court challenging therein the order dated 17.6.86 of the respondent No.4 State, granting registration to a secondary school known as Jagatguru Vidhyalaya to the respondent No.1 in the area of Madhapar, Bhomeshwar plot

on Jamnagar road, Bajrang Vadi at Rajkot.

2. The petitioner has made grievance that they have raised objection before the respondent No.2 at the time of inquiry pertaining to grant registration of school to respondent No.1. The order impugned has been made by respondent No.4, as per the case of the petitioners, without affording opportunity of hearing to the petitioners. The petitioners have made grievance that grant of recognition to the school of respondent No.1 will result in unhealthy/unfair competition.

3. None of the respondents have filed reply to this Special Civil Application. Status-quo was ordered to be maintained, meaning thereby the school of respondent No.1 to which recognition was granted continues. The averment made by the petitioner that the order was made by respondent No.4 without hearing the petitioners goes unchallenged.

4. Now quashing of that order on this ground at this stage may result in non recognition of school of respondent No.1 in the middle of session. Secondly, it may affect many other students who have been admitted. Hence, the proper course in such a situation would be to direct the respondent No.4 to give the petitioners post-decisional hearing. While giving the post-decisional hearing to the petitioners, the respondent No.4 shall keep in mind the subsequent events, i.e. that the said school is running for the last many years; the student population would have increased in the area and there may be need for more schools in the area. While deciding the matter, the respondent No.4 shall consider the matter whether the grievance of the petitioners of unhealthy competition because of recognition of school of respondent No.1 has really any substance or it is only an illusory. This matter has to be decided with reference to the evidence, if any, produced by the petitioner on this point. The petitioners have to establish this fact by proving positive evidence and copy of the same be given to the respondent No.1 in advance. The respondent No.1 shall also be at liberty to produce evidence in rebuttal. The matter has to be decided after hearing both, the petitioners and the respondent No.1.

5. In the result, this writ petition and Rule stands disposed of in aforesaid terms with no order as to costs.

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(sunil)